

NOS. 21-55395; 21-55404; 21-55408

**IN THE UNITED STATES COURT OF
APPEALS FOR THE NINTH CIRCUIT**

LA ALLIANCE FOR HUMAN RIGHTS, et al.
Plaintiffs – Appellees,

v.

COUNTY OF LOS ANGELES, ET AL.,
Defendants - Appellants

On appeal from the United States District Court
For the Central District of California, No. 2:20-cv-02291-DOC-KES
Honorable David O. Carter

**AMICUS BRIEF OF HOPE STREET COALITION
IN SUPPORT OF PLAINTIFFS AND APPELLEES
LA ALLIANCE FOR HUMAN RIGHTS, ET AL.**

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Rule 26.1 of the Federal Rules of Appellate Procedure, *amicus curiae* Hope Street Coalition states as follows: Hope Street Coalition has no parent company, and no publicly held corporation that owns 10% or more of its stock.

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Under Federal Rule of Appellate Procedure 29, Hope Street Coalition (“Hope Street”) submits this amicus curiae brief in support of Plaintiff and Appellee, LA Alliance for Human Rights.¹

INTEREST OF *AMICUS CURIAE*

Hope Street is a nonpartisan alliance of advocates for the seriously mentally ill, the homeless, and the chronically addicted. Hope Street was founded and is directed by Paul C. Webster, a former Senior Policy Advisor for the U.S. Department of Housing and Urban Development (“HUD”). In 2020, Mr. Webster served as the chief liaison between HUD and the City and County of Los Angeles focusing on a federal and local partnership to reduce the number of individuals experiencing homelessness. With Mr. Webster’s three-decades of public service, Hope Street has deep knowledge of the funding of homelessness assistance in Los Angeles, including the policies and practices of Los Angeles Homeless Services Authority (“LAHSA”).

Hope Street has a substantial interest in this case. Hope Street advocates to improve the circumstances of the unhoused mentally ill and addicted. Hope Street’s goals are to shelter this population and remove any barriers to treatment. It

¹ All parties have consented to the filing of this brief. No part of this brief was authored by counsel to any party, and no person other than Amici Curiae or its counsel made a monetary contribution to the preparation or submission of this brief.

supports the increase of clinically intensive residential care facilities to provide long-term stability and wellness to the unhoused mentally ill and addicted. To that end, Hope Street has advocated for families against county and state departments of public and behavioral health, as well as law enforcement agencies, so that family members who are suffering serious mental illness and addiction can receive treatment and remain housed. Its work has focused on balancing the interests of families to see that their loved ones can be treated and housed, with the interests of the individuals—many of whom no longer have the capacity to participate and function in daily life and are danger to themselves if they are left untreated and unhoused.

The District Court’s April 20, 2021 injunction (the “Order”) recognizes that immediate and emergency action is needed right now to stop the death and suffering of the homeless, especially those suffering from mental illness and addiction, on the streets of Los Angeles. The District Court’s Order shows that the mentally ill and addicted have been and will continue to be harmed by a singular focus on building permanent supportive housing, while ignoring the need for immediate shelter and intensive clinical interventions. By imposing strict deadlines for shelter and mandating accountability over the expenditure of funds and establishment of sub-acute beds, the District Court’s Order empowers the City

and County of Los Angeles to act boldly and quickly to protect our most vulnerable citizens.

INTRODUCTION

Hope Street advocates for the homeless who suffer from mental illness and addiction—a group that has been dying and suffering for too long on the streets of Los Angeles. Hope Street supports the District Court’s Order because it demands *immediate* action and accountability from the City and County of Los Angeles to provide shelter and treatment. In doing so, the Order recognizes the sheer scale of the emergency; there were 66,436 people counted as homeless in 2020, and 5,814 homeless people have died over the last five years.

In the face of this humanitarian crisis, advocates of long-term, permanent supportive housing have insisted that it is the only viable solution to homelessness, and that funds should not be diverted from this goal. But the District Court’s Order says what we all know is true: permanent supportive housing has not and cannot be the only solution. It takes too long to build, and there will not be enough homes to go around. In the meantime, the homeless—the majority of whom suffer from mental illness and addiction issues—have had to fend for themselves without the medical treatment that they desperately need. The District Court’s Order acknowledges this reality, and Hope Street would like to focus the Court on two important aspects of the injunction that are in the public interest:

First, the Order requires that the County provide for mental health treatment and specialized beds to the unsheltered on Skid Row and mandates progress in the

creation of 1,508 sub-acute beds. These actions will provide *immediate* treatment to those who are least able to care for themselves. By focusing on providing permanent supportive housing as a *sole* means of reducing homelessness, the homeless who suffer from mental illness and addiction have been dying and suffering on a massive scale. Mental health and addiction treatment is faster, safer, and cheaper than devoting all resources to permanent supportive housing.

Second, permanent supportive housing cannot provide the positive clinical outcomes for those that make up the majority of those experiencing homelessness—the mentally ill and addicted. Due to the lack of investment, and the regulations of federal and state funds to address homelessness, the population that makes up the largest share of the unhoused will continue to be underserved, unless the City and County are required to meet their treatment needs. The Order is an important step in addressing this crisis by providing immediate shelter and mandating treatment.

The singular focus on building permanent supportive housing has failed to provide the immediate and appropriate treatment for the mentally ill and drug addicted living on the streets. Hope Street supports the District Court’s Order because it acknowledges and addresses the intersection of homelessness, mental illness, and addiction in a substantive way, that will save lives and reduce homelessness.

ARGUMENT

A. Building Only Permanent Supportive Housing Means That The Immediate Shelter And Medical Treatment That The Homeless Need Will Not Be Available, Resulting In More Death And Suffering.

1. There Will Not Be Enough Permanent Supportive Housing Units To House The Growing Number Of Homeless.

The District Court's Order deals with the grim reality of homelessness in Los Angeles. That is, permanent supportive housing is taking too long to build, and there are too many people experiencing homelessness who need shelter. In 2015, there were 41,175 counted as homeless. That number has ballooned to 66,436 in 2020. The situation is likely to get worse. Housing remains scarce, the eviction moratorium will end, and 9,000 affordable housing units housing about 20,000 people will no longer be available in coming years.

To address homelessness, the singular focus remains on building 10,000 permanent supportive housing units with the \$1.2 billion in taxpayer funds from Measure H that was passed in 2017. That focus is at odds with reality. The 10,000 units initially envisioned will take *ten years to build*, and current estimates suggests that little more than 5,000 permanent supportive housing units will be the more realistic result. Four years into the construction, only 732 units have become available with only another 2,360 scheduled to become available in the next year. Construction has been plagued by delays, cost overruns, corruption, and a web of

bureaucratic hurdles. At the current pace, it will take 30 years to build the units for the more than 66,000 homeless.

The choice to prioritize building long term permanent supportive housing over immediate shelter and other treatment facilities has resulted in disaster. While waiting for permanent housing, 5,814 people have died in Los Angeles County since 2017. There were 1,383 homeless deaths in 2020 alone, and about 5 people on average die each day. As documented by the Court's Order, the homeless and surrounding communities face nightmarish conditions, as encampments cover sidewalks and public spaces under the constant threat of fires, cars collisions, crime, and disease. Such conditions have caused and made worse the physical and mental health of the homeless.²

2. Focusing Only On Permanent Supportive Housing Does Not Help The Immediate Needs Of The Mentally Ill And Addicted.

There is a belief that permanent supportive housing is the *only* real answer to homelessness. This belief relies on two main assumptions: one, homelessness stems from bad luck as opposed to behavior; and, two, permanent supportive

² County of Los Angeles, Public Health, Center for Health Impact Evaluation, http://publichealth.lacounty.gov/chie/reports/HomelessMortality_CHIEBrief_Final.pdf; Seena Fazel, MD, John R. Geddes, MD, et al., *The health of homeless people in high-income countries: descriptive epidemiology, health consequences, and clinical and policy recommendations*, The Lancet, vol. 382, issue 9953, pp. 1529-40 (Oct. 25, 2014), [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(14\)61132-6/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(14)61132-6/fulltext).

housing must be prioritized. But these assumptions underestimate other causes of homelessness such as the lack of adequate psychiatric treatment hospitals for the mentally ill and the widespread use of drugs, including opioids. As a result, permanent housing has been touted as a cure-all at the expense of clinical interventions—which produce long-term stability and positive health outcomes for the unhoused who are mentally ill and addicted.

The need to tackle severe mental illness and addiction among the homeless is critical and of the utmost urgency. Federal data from HUD estimates that around 30,000 of the homeless in Los Angeles are experiencing some type of mental health condition; UCLA’s PolicyLab Study estimates that the *majority* of the homeless are mentally ill and/or addicted to drugs.³ The Los Angeles Times also found that 67% of the homeless had either a mental illness or a substance abuse disorder.⁴ Further, the District Court found that, of the more than 66,000 homeless, at least 25% are suffering from serious mental illness. The unhoused mentally ill and drug addicted have placed enormous strains on already scarce and under

³ Sean Coffey, “Study confirms serious health problems, high trauma rates among unsheltered people in U.S.”, UCLA, (October 7, 2019), <https://newsroom.ucla.edu/releases/serious-health-conditions-trauma-unsheltered-homeless>

⁴ Doug Smith and Benjamin Oreskes, “Are many homeless people in L.A. mentally ill? New findings back the public’s perception,” LATIMES, (October 7, 2019), <https://www.latimes.com/california/story/2019-10-07/homeless-population-mental-illness-disability>

resourced psychiatric facilities. This has resulted in a shortage of sub-acute psychiatric beds and few rehabilitation facilities for both the housed and unhoused. Because so many people who suffer from severe mental illness cannot act rationally or function in society, the lack of immediate shelter poses an immediate danger to their safety and the safety of our communities. The District Court's injunction requiring provision of shelter and treatment is critical to protect this most vulnerable population.

Despite this fact, the amicus briefs advocate for the long-term solution of permanent supportive housing. For example, LAHSA argues that interim housing must be “balanced” with permanent housing. But only 5% of the Proposition HHH funds have been spent on immediate shelter, as opposed to permanent supporting housing, with deadly consequences. That is not balanced. In addition, despite the criticism of short-term solutions, recent news stories confirm that LAHSA acknowledges the need for *more* interim housing solutions.⁵

Temporary shelters are also disparaged as a “bridge to nowhere” because they rarely lead to permanent housing. But interim *and* permanent housing can be built at the same time. If a hurricane left thousands homeless, immediate shelter

⁵ Doug Smith and Benjamin Oreskes, “We’ll clear homeless camps from Venice boardwalk this summer, with no arrests.” LATIMES (June 22, 2021), <https://www.latimes.com/homeless-housing/story/2021-06-22/bonin-promises-to-clear-homeless-camps-from-venice-boardwalk-by-early-august-with-housing-not-arrests> .

undoubtedly would be provided; our citizens would not have to fend for themselves while waiting for their homes to be built. Yet, this is the position that *amici* are taking. There is no legitimate justification for condemning the unhoused to die to ensure that permanent supportive housing remain the preferred solution to solve homelessness. It defies common sense, and, as discussed in more detail below, it fails to acknowledge that permanent housing cannot solve the crisis for the mentally ill and drug addicted.

B. Residential Treatment Is A Faster And Cheaper Way To House and Deliver Intensive Treatment To The Mentally Ill And Drug Addicted.

What is lacking in the battle to heal and house those suffering on the streets with mental illness and addiction are places where intensive mental health and addiction treatment can be provided. These facilities can provide immediate relief. Residential treatment can provide mental and physical stability much faster and cheaper than permanent supportive housing and also provide other clinical outcomes so that recidivism is reduced. By providing on-demand treatment and beds to support that treatment, the dangers that the homeless have to endure while on the streets can be eliminated and drastically reduced. In fact, the supportive services offered in the permanent housing context can act as a support for

treatment, but it fails to produce clinical outcomes that are critical for stability, improved health, and to prevent demise from untreated illness.

One common refrain is that treatment facilities are more expensive to maintain than permanent supportive housing. That may be true. However, the cost comparison usually does not factor the cost of allowing unhoused individuals to suffer and die, or the “soft costs” and costs of the actual construction of the units. Nor do they account for the massive cost to hospitals, first responders, street maintenance, and communities from having to deal with the unhoused mentally ill and addicted, who are frequent users of these services. In fact, a recent report shows that homeless encampment fires accounted for 54% of all fires responded to by the Los Angeles Fire Department, and, in the downtown area that number jumped to 80%.⁶ If treatment can save lives and reduce mental illness and drug addition, the additional expenses are justified.

In light of the enormous health risks of being homeless, the District Court’s Order imposing deadlines to create sub-acute beds for the mentally ill and addicted has a better chance in providing immediate help to protect the safety of this vulnerable population.

⁶ CBSLA Staff, “Homeless Encampment Fires Account For 80% Of Blazes Plaguing DTLA In Recent Weeks: ‘It’s So Sad’” (June 14, 2021), <https://losangeles.cbslocal.com/2021/06/14/rash-of-homeless-encampment-fires-continues-across-southland/>

C. The Court's Order Will Provide Immediate Beds For Those Suffering From Severe Mental Illness and Drug Addiction.

Hope Street supports the District Court's Order that requires progress reports on the establishment of 1,508 new sub-acute mental illness and substantive use disorder treatment beds to accommodate the needs of the *non-jail* population and an additional 1,418 new sub-acute beds to accommodate those with substance abuse disorders being diverted from jails. The homeless who suffer from mental illness and drug addiction have continued to suffer as they wait for the completion of permanent supportive housing. As discussed, this population represents a large portion of the homeless population; permanent supportive housing will not turn these trends in the right direction.

Permanent supportive housing is not a substitute for clinical interventions and more intensive treatment. That is because federal regulations require permanent supportive housing providers to offer services to program participants. These services can vary from periodic visits from case managers, transportation services, drug treatment referrals, or classes promoting the benefits of employment training. These services are provided at the discretion of the provider and federal regulation prohibits the requirement of participation in these services. *See* 24 CFR 575.75(h). The result is that those with the most severe illnesses and addictions refuse services and forgo any clinical interventions. Permanent supportive housing cannot provide the intensive clinical treatment required to help those with chronic,

life-long illnesses such as substance abuse, or schizophrenia and related brain disorders. Many of these unhoused people are not acting rationally; they are often dangers to themselves and others, and they cannot function in society without serious treatment. Permanent supportive housing will not help these individuals. However, if left unhoused or untreated for long periods of time, these individuals may worsen in their psychosis.

The amicus briefs argue that permanent supportive housing is better able to handle individuals with physical and mental health issues. But permanent supportive housing is not a viable solution if people have to wait years before it becomes available or if that housing fails to result in positive clinical outcomes. The argument also ignores the fact that treatment facilities can be faster and cheaper to build and can come online faster in light of the District Court's Order. Indeed, the high cost of building permanent supportive housing can lead to an actual reduction in the funds left over for supportive services. Given that the intensive mental and psychiatric care is more important, the District Court's Order actions relating to psychiatric beds and an accounting of the monies spent on homelessness shelters is a good start.

While temporary housing may not be the entire answer either, it can save resources for the types of clinical and intensive intervention needed to deal with the homelessness crisis. For this reason, the auditing of funds as ordered by the

Court for mental health and substantive abuse disorder is critical to see what treatment capacity exists and how much is needed.

CONCLUSION

The District Court's Order recognizes that action must be taken immediately to save the lives of the homeless living on the streets of Los Angeles. It recognizes that those who are mentally ill and addicted to drugs are dying needlessly at alarming rates because of a preoccupation with permanent supportive housing—housing that will take years to build and will be, ultimately, ineffective in treating serious mental illness. The Court's Order forces the City and County to start providing immediate shelter to protect its most vulnerable citizens. It is a sensible and needed step in dealing with this emergency in light of the unspeakable suffering and alarming rates of deaths that the homeless have had to long endure.

DATED: June 24, 2021

Respectfully Submitted,
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UNITED STATES COURT OF APPEALS
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